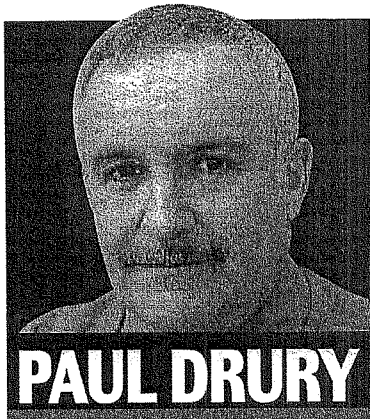


# At last, a chance to savour one of life's rare pleasures... seeing money taken out of the tailored pockets of lawyers



**D**ON'T waste your time feeling sorry for Denis Boland, the solicitor who has had his €925,000 share of a €2.1million legal bill reduced to €86,000 by the Taxing Master. You see, the 58-year-old has already done pretty well out of the small, country town practice, Patrick V Boland & Son, that he inherited several decades ago from his father.

And, while the Taxing Master may have dismissed the claim submitted by Mr Boland and his counsel in this latest personal injury case as 'revolting in the extreme', the Newbridge, Co. Kildare, native will not, I suspect, be too worried about the publicity or this temporary dip in his income. He is appealing the decision.

He has built up quite a nice lifestyle for himself over the years - including a home valued at more than €1million at the height of the boom and conveniently situated near his favourite golf course.

The Mercedes-driving solicitor still manages to find the time – in between, obviously, attending to his clients' legal concerns – to enjoy regular sun and ski holidays. He has also invested wisely and has an interest in an apartment complex built behind his office in the centre of Newbridge.

It is, however, noteworthy that the bill that has just been shot down, so dramatically, in flames by the Taxing Master involved a case brought by a man who suffered injuries at work and who had made his first visit to Mr Boland's office in 2004. Because, over the course of the decade immediately prior to that visit, Mr Boland had become something of an expert in cases of this kind.

Newbridge is just two miles down the road from the Curragh Camp, largest military base in the country. And, in the ten years up to 2002, Mr Boland's firm earned more than €13.65million in legal fees – all from taking a flood of compensation claims on behalf of soldiers, and former soldiers, who suffered deafness because of their line of work.

In fact, by his own admission, Mr Boland did little else in the line of work in the Nineties. Indeed, with an income stream like that, why would he?

He wasn't the only solicitor to grow rich on the back of this particular milch cow. Far from it, in fact. In the three years up to 2002, at which point the Government had eventually brought in an out-of-court settlement scheme, 617 solicitors' firms earned €57million between them from deafness claims.

What the settlement scheme did, of course, apart from bringing the cost of awards down, was to do away with the need to hire a lawyer. It was at that point that solicitors like Mr Boland had once again to look elsewhere for a bob or two. And there is, let me stress, nothing wrong with that. We live, after all, in a capitalist society.

But there is a big difference between earning a living and seeking to rip the taxpayer off. And that, quite frankly, is what Mr Boland and his barristers were attempting to do with the massive bill the Taxing Master has just adjudicated upon.

You see, it arose out of a long-running case

against a State body and that involved High Court and Supreme Court hearings – both of which they won, meaning the taxpayer must pick up the costs.

They had, for example, submitted a €10,000 bill for postage, photocopying, paper and other such costs. In the course of my work I come across a few legal bills and I know lawyers are fond of writing letters, and I know they like to do everything in triplicate.

## Obscenities

And in fairness to Mr Boland, he did not submit a claim, as has on occasion happened to me, for 'scrivenage' – a legal service I have never had properly explained to me but which I can only assume involves the services of Dickensian clerks sitting on high stools, transcribing

by candlelight the details of the case in hand into big, leather-bound ledgers in crabbéd copperplate.

But, despite becoming as inured as I have to the obscenities of lawyers' bills, I struggle to understand how anybody could possibly run up secretarial costs like this – even over the course of a complex, six-year legal battle. So too did the Taxing Master, who knocked this portion of the bill down to a mere €1,000. That's still an awful lot of stamps and photocopies.

Then there was Mr Boland's own professional fee, slashed by the Taxing Master as I mention above by almost 90 per cent, and those of the four barristers he employed – including former attorney general Harry Whelehan, who submitted a claim for €110,000 for his services as a senior counsel in the case. The Taxing Master granted him €25,000.

That, of course, is the other odd thing about lawyers' bills. They are always nice round sums – in this case, €220,000 for Mr Whelehan's fellow SC, Paul Gardiner (reduced to €55,000), €75,000 for junior counsel Dan Boland (reduced to €16,670) and €150,000 for junior counsel Cormac McNamara (reduced to €20,000).

Mr McNamara's claim is especially interesting. He had originally sought €75,000 for the High Court hearing and a further €75,000 for the Supreme Court. While he was granted something for his work in the Supreme Court case, the Taxing Master awarded him

nothing whatsoever for the High Court. Not a euro. Not a cent. Nada.

Presumably, the Taxing Master – Charles Moran, himself a distinguished man of the law – came to the conclusion Mr McNamara's services were not required for the original High Court case. Yet Mr McNamara had still claimed the equivalent of three years' earnings at the average industrial wage for his services. Nice money if you can get it.

It's almost as if these men plucked their original figures out of the air. But then such distinguished, highly qualified professional practitioners – Mr Whelehan, for example, also served briefly as President of the High Court – would hardly do something as arbitrary as that, now would they?

## Gripe

What is, of course, also interesting about this case is the precise nature of the gripe that led to this legal marathon. And it was not the scale of the injuries suffered by Declan O'Brien, when an overhead line carrying beef carcasses collapsed on him in the meat factory where he worked. Nor was it even the sum of money to which he was entitled.

Nor was it even about liability. Mr O'Brien had taken his case to the newly established Personal Injuries Assessment Board, a body set up in 2003 to cut down the time and cost involved in securing compensation for personal injuries in cases where the person or organisation responsible has accepted liability – just as was done with army deafness claims.

No, it was about whether or not Mr O'Brien

was entitled to legal representation – legal representation in pursuing a claim that was not going to go to court, in front of an assessment body that is so transparent in its dealings that it even publishes an online ready reckoner to tell you how much you can expect and in a case in which liability was not even at issue.

Yet Mr Boland felt so strongly that this was indeed his client's Constitutional right and it was so important that he be legally represented that he took the fight all the way to the Supreme Court – with, I should add, the full support and encouragement of the solicitors' professional organisation, the Incorporated Law Society.

When they won their initial High Court case in 2005, the Law Society even issued a po-faced statement saying how delighted they were at a judgment that confirmed that legal representation existed for the maintenance of fairness between the strong and the weak. As their director general, Ken Murphy, remarked: 'Legal representation is necessary to guarantee the rights of victims of accidents against the interest of big business and the insurance industry.'

It's nice to see people taking their public responsibilities so seriously.

That this legal representation also serves, in these recessionary times, to keep on lining the tailored pockets of a veritable army of solicitors, senior counsel and junior counsel – men like those who on this occasion came up with fees that were, in the words of the Taxing Master, 'devoid of all reality, bear no relationship to the issues involved or the nature or extent of the work undertaken' – is, of course, completely irrelevant.

Or is it?